

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALBERT Z. WANG,

Plaintiff,

v.

WEN-CHIN WU a/k/a JIMMY WU;
CHENG-HSUAN WU; CTBC BANK CO.
LTD.,

Defendants.

Case No. 8:16-cv-00084-GW(MRWx)

**STIPULATED PROTECTIVE
ORDER**

1. INTRODUCTION

1.1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the

1 protection it affords from public disclosure and use extends only to the limited
2 information or items that are entitled to confidential treatment under the applicable
3 legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
4 that this Stipulated Protective Order does not entitle them to file confidential
5 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
6 followed and the standards that will be applied when a party seeks permission from
7 the court to file material under seal.

8 1.2. GOOD CAUSE STATEMENT

9 This Stipulated Protective Order is proposed by the parties in connection with
10 Plaintiff's motion for leave to conduct jurisdictional and venue discovery. The parties
11 recognize that Defendant CTBC Bank Co., Ltd ("CTBC") may elect to provide certain
12 documents and testimony relating to disputed jurisdictional and venue issues. The
13 parties jointly request entry of this Stipulated Protective Order to reduce
14 confidentiality concerns in connection with the possible production of such
15 information, for example regarding information that is confidential and proprietary
16 business information of CTBC.

17 2. DEFINITIONS

18 2.1. Action: This pending federal law suit.

19 2.2. Challenging Party: a Party or Non-Party that challenges the designation
20 of information or items under this Order.

21 2.3. "CONFIDENTIAL" Information or Items: information (regardless of
22 how it is generated, stored or maintained) or tangible things that qualify for protection
23 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
24 Cause Statement

25 2.4. Counsel: Outside Counsel of Record and House Counsel (as well as their
26 support staff).

1 2.5. Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 2.6. Disclosure or Discovery Material: all items or information, regardless of
5 the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things), that are produced or
7 generated in disclosures or responses to discovery in this matter.

8 2.7. Expert: a person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
10 expert witness or as a consultant in this Action.

11 2.8. House Counsel: attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 2.9. Non-Party: any natural person, partnership, corporation, association, or
15 other legal entity not named as a Party to this action.

16 2.10. Outside Counsel of Record: attorneys who are not employees of a party
17 to this Action but are retained to represent or advise a party to this Action and have
18 appeared in this Action on behalf of that party or are affiliated with a law firm which
19 has appeared on behalf of that party, and includes support staff.

20 2.11. Party: any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 2.12. Producing Party: a Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 2.13. Professional Vendors: persons or entities that provide litigation support
26 services (e.g., photocopying, videotaping, translating, preparing exhibits or
27 demonstrations, and organizing, storing, or retrieving data in any form or medium)
28 and their employees and subcontractors.

1 2.14. Protected Material: any Disclosure or Discovery Material that is
2 designated as “CONFIDENTIAL.”

3 2.15. Receiving Party: a Party that receives Disclosure or Discovery Material
4 from a Producing Party.

5
6 3. SCOPE

7 The protections conferred by this Stipulation and Order cover not only
8 Protected Material (as defined above), but also (1) any information copied or extracted
9 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
10 Protected Material; and (3) any testimony, conversations, or presentations by Parties
11 or their Counsel that might reveal Protected Material.

12 Any use of Protected Material at trial shall be governed by the orders of the trial
13 judge. This Order does not govern the use of Protected Material at trial.

14
15 4. DURATION

16 Even after final disposition of this litigation, the confidentiality obligations
17 imposed by this Order shall remain in effect until a Designating Party agrees
18 otherwise in writing or a court order otherwise directs. Final disposition shall be
19 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
20 or without prejudice; and (2) final judgment herein after the completion and
21 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
22 including the time limits for filing any motions or applications for extension of time
23 pursuant to applicable law.

24
25 5. DESIGNATING PROTECTED MATERIAL

26 5.1. Exercise of Restraint and Care in Designating Material for Protection.
27 Each Party or Non-Party that designates information or items for protection under this
28 Order must take care to limit any such designation to specific material that qualifies

1 under the appropriate standards. The Designating Party must designate for protection
 2 only those parts of material, documents, items, or oral or written communications that
 3 qualify so that other portions of the material, documents, items, or communications
 4 for which protection is not warranted are not swept unjustifiably within the ambit of
 5 this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
 7 that are shown to be clearly unjustified or that have been made for an improper
 8 purpose (e.g., to unnecessarily encumber the case development process or to impose
 9 unnecessary expenses and burdens on other parties) may expose the Designating Party
 10 to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
 12 designated for protection do not qualify for protection, that Designating Party must
 13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 **5.2. Manner and Timing of Designations.** Except as otherwise provided in
 15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
 16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
 17 under this Order must be clearly so designated before the material is disclosed or
 18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic
 21 documents, but excluding transcripts of depositions or other pretrial or trial
 22 proceedings), that the Producing Party affix at a minimum, the legend
 23 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
 24 contains protected material. If only a portion or portions of the material on a page
 25 qualifies for protection, the Producing Party also must clearly identify the protected
 26 portion(s) (e.g., by making appropriate markings in the margins).

27 A Party or Non-Party that makes original documents available for inspection
 28 need not designate them for protection until after the inspecting Party has indicated

which documents it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order. Then, before producing the specified documents, the Producing Party must affix the “CONFIDENTIAL legend” to each page that contains Protected Material. If only a portion or portions of the material on a page qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

(b) for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

(c) for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

1 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1. Timing of Challenges. Any Party or Non-Party may challenge a
 3 designation of confidentiality at any time that is consistent with the Court's
 4 Scheduling Order.

5 6.2. Meet and Confer. The Challenging Party shall initiate the dispute
 6 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
 7 et seq.

8 6.3. The burden of persuasion in any such challenge proceeding shall be on
 9 the Designating Party. Frivolous challenges, and those made for an improper purpose
 10 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
 11 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
 12 withdrawn the confidentiality designation, all parties shall continue to afford the
 13 material in question the level of protection to which it is entitled under the Producing
 14 Party's designation until the Court rules on the challenge.

15

16 7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

17 7.1. Basic Principles. A Receiving Party may use Protected Material that is
 18 disclosed or produced by another Party or by a Non-Party in connection with this
 19 Action only for prosecuting, defending, or attempting to settle this Action. Such
 20 Protected Material may be disclosed only to the categories of persons and under the
 21 conditions described in this Order. When the Action has been terminated, a Receiving
 22 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

23 Protected Material must be stored and maintained by a Receiving Party at a
 24 location and in a secure manner that ensures that access is limited to the persons
 25 authorized under this Order.

26 7.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless
 27 otherwise ordered by the court or permitted in writing by the Designating Party, a
 28

1 Receiving Party may disclose any information or item designated "CONFIDENTIAL"
2 only to:

3 (a) the Receiving Party's Outside Counsel of Record in this Action, as
4 well as employees of said Outside Counsel of Record to whom it is reasonably
5 necessary to disclose the information for this Action;

6 (b) the officers, directors, and employees (including House Counsel)
7 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

8 (c) Experts (as defined in this Order) of the Receiving Party to whom
9 disclosure is reasonably necessary for this Action and who have signed the
10 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

11 (d) the Court and its personnel;

12 (e) court reporters and their staff;

13 (f) professional jury or trial consultants, mock jurors, and Professional
14 Vendors to whom disclosure is reasonably necessary for this Action and who have
15 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

16 (g) the author or recipient of a document containing the information or
17 a custodian or other person who otherwise possessed or knew the information;

18 (h) during their depositions, witnesses, and attorneys for witnesses, in
19 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
20 party requests that the witness sign the form attached as Exhibit A hereto; and (2) the
21 will not be permitted to keep any confidential information unless they sign the
22 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed
23 by the Designating Party or ordered by the court. Pages of transcribed deposition
24 testimony or exhibits to depositions that reveal Protected Material may be separately
25 bound by the court reporter and may not be disclosed to anyone except as permitted
26 under this Stipulated Protective Order; and

27 (i) any mediator or settlement officer, and their supporting personnel,
28 mutually agreed upon by any of the parties engaged in settlement discussions.

1 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
2 OTHER LITIGATION

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

6 (a) promptly notify in writing the Designating Party. Such notification
7 shall include a copy of the subpoena or court order;

8 (b) promptly notify in writing the party who caused the subpoena or
9 order to issue in the other litigation that some or all of the material covered by the
10 subpoena or order is subject to this Protective Order. Such notification shall include a
11 copy of this Stipulated Protective Order; and

12 (c) cooperate with respect to all reasonable procedures sought to be
13 pursued by the Designating Party whose Protected Material may be affected.

14 If the Designating Party timely seeks a protective order, the Party served with
15 the subpoena or court order shall not produce any information designated in this
16 action as “CONFIDENTIAL” before a determination by the court from which the
17 subpoena or order issued, unless the Party has obtained the Designating Party’s
18 permission. The Designating Party shall bear the burden and expense of seeking
19 protection in that court of its confidential material and nothing in these provisions
20 should be construed as authorizing or encouraging a Receiving Party in this Action to
21 disobey a lawful directive from another court.

22

23 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
24 IN THIS LITIGATION

25 (a) The terms of this Order are applicable to information produced by
26 a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
27 produced by Non-Parties in connection with this litigation is protected by the

1 remedies and relief provided by this Order. Nothing in these provisions should be
2 construed as prohibiting a Non-Party from seeking additional protections.

3 (b) In the event that a Party is required, by a valid discovery request,
4 to produce a Non-Party's confidential information in its possession, and the Party is
5 subject to an agreement with the Non-Party not to produce the Non-Party's
6 confidential information, then the Party shall:

7 (1) promptly notify in writing the Requesting Party and the
8 Non-Party that some or all of the information requested is subject to a confidentiality
9 agreement with a Non-Party;

10 (2) promptly provide the Non-Party with a copy of the
11 Stipulated Protective Order in this Action, the relevant discovery request(s), and a
12 reasonably specific description of the information requested; and

13 (3) make the information requested available for inspection by
14 the Non-Party, if requested.

15 (c) If the Non-Party fails to seek a protective order from this court
16 within 14 days of receiving the notice and accompanying information, the Receiving
17 Party may produce the Non-Party's confidential information responsive to the
18 discovery request. If the Non-Party timely seeks a protective order, the Receiving
19 Party shall not produce any information in its possession or control that is subject to
20 the confidentiality agreement with the Non-Party before a determination by the court.
21 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
22 of seeking protection in this court of its Protected Material.

23
24 10. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

25 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
26 Protected Material to any person or in any circumstance not authorized under this
27 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
28 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts

1 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
2 persons to whom unauthorized disclosures were made of all the terms of this Order,
3 and (d) request such person or persons to execute the “Acknowledgment and
4 Agreement to Be Bound” that is attached hereto as Exhibit A.

5

6 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
7 **PROTECTED MATERIAL**

8 When a Producing Party gives notice to Receiving Parties that certain
9 inadvertently produced material is subject to a claim of privilege or other protection,
10 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
11 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
12 may be established in an e-discovery order that provides for production without prior
13 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
14 parties reach an agreement on the effect of disclosure of a communication or
15 information covered by the attorney-client privilege or work product protection, the
16 parties may incorporate their agreement in the stipulated protective order submitted to
17 the court.

18

19 **12. MISCELLANEOUS**

20 12.1. Right to Further Relief. Nothing in this Order abridges the right of any
21 person to seek its modification by the Court in the future. Given the preliminary
22 nature of the action, the parties agree that any modification of this Order may be
23 sought by either party without good cause for not raising the issue sooner.

24 12.2. Right to Assert Other Objections. By stipulating to the entry of this
25 Protective Order no Party waives any right it otherwise would have to object to
26 disclosing or producing any information or item on any ground not addressed in this
27 Stipulated Protective Order. Similarly, no Party waives any right to object on any
28 ground to use in evidence of any of the material covered by this Protective Order.

1 12.3. Filing Protected Material. A Party that seeks to file under seal any
2 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
3 only be filed under seal pursuant to a court order authorizing the sealing of the
4 specific Protected Material at issue. If a Party's request to file Protected Material
5 under seal is denied by the court, then the Receiving Party may file the information in
6 the public record unless otherwise instructed by the court.

7

8 13. FINAL DISPOSITION

9 After the final disposition of this Action, as defined in paragraph 4, within 60
10 days of a written request by the Designating Party, each Receiving Party must return
11 all Protected Material to the Producing Party or destroy such material. As used in this
12 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
13 summaries, and any other format reproducing or capturing any of the Protected
14 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
15 must submit a written certification to the Producing Party (and, if not the same person
16 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
17 category, where appropriate) all the Protected Material that was returned or destroyed
18 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
19 compilations, summaries or any other format reproducing or capturing any of the
20 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
21 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
22 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
23 attorney work product, and consultant and expert work product, even if such materials
24 contain Protected Material. Any such archival copies that contain or constitute
25 Protected Material remain subject to this Protective Order as set forth in Section 4
26 (DURATION).

27

28

14. Any willful violation of this Order may be punished by civil or criminal contempt proceedings, financial or evidentiary sanctions, reference to disciplinary authorities, or other appropriate action at the discretion of the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: May 6, 2016

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: /s/ Scott R. Miller
SCOTT R. MILLER
HARRIS GAO
Attorneys for Plaintiff,
ALBERT Z. WANG

DATED: May 6, 2016

BLANK ROME LLP

By: /s/ E. Crystal Lopez
MIKE MARGOLIS
NAKI MARGOLIS
E. CRYSTAL LOPEZ
Attorneys for Defendant,
CTBC BANK CO., LTD

SIGNATURE CERTIFICATION

Pursuant to Local Rule 5-4.3.4, I hereby certify that the content of this document is acceptable to Scott R. Miller, attorney for Plaintiff, and that I obtained Mr. Miller's authorization to file this document with his electronic signature.

By: /s/ E. Crystal Lopez

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: May 9, 2016

HON. MICHAEL R. WILNER
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, [full name], of _____
_____ [full address], declare under penalty of perjury that I have
in its entirety and understand the Stipulated Protective Order that was issued by
United States District Court for the Central District of California on _____ [date]
case of Wang v. Wu, et al., Case No. 8:16-cv-00084-GW(MRWx). I agree to
comply with and to be bound by all the terms of this Stipulated Protective Order and I
understand and acknowledge that failure to so comply could expose me to sanctions
and punishment in the nature of contempt. I solemnly promise that I will not disclose
in any manner any information or item that is subject to this Stipulated Protective
Order to any person or entity except in strict compliance with the provisions of this
Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [full name] of _____ [full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where signed: _____

Printed name:

Signature: